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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

STEVEN RZEPECKI,
Plaintiff,

vs.

EXPERIAN INFORMATION SOLUTIONS,
INC.; BANK OF THE WEST; and MATTRESS
FIRM,
Defendants.

Case No.: 2:17-cv-02999-RFB-CWH

~~[PROPOSED]~~ STIPULATED
PROTECTIVE ORDER

IT IS HEREBY STIPULATED by and between Plaintiff STEVEN RZEPECKI

1 (“Plaintiff”) and Defendant¹ EXPERIAN INFORMATION SOLUTIONS, INC., (collectively, the
2 “Parties”), by and through their counsel of record, as follows:

3 WHEREAS, documents and information have been and may be sought, produced or
4 exhibited by and among the parties to this action relating to trade secrets, confidential research,
5 development, technology or other proprietary information belonging to the defendants and/or
6 personal income, credit and other confidential information of Plaintiff.

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8 THEREFORE, an Order of this Court protecting such confidential information shall be and
9 hereby is made by this Court on the following terms:

10 1. This Order shall govern the use, handling and disclosure of all documents,
11 testimony or information produced or given in this action which are designated to be subject to
12 this Order in accordance with the terms hereof.

13 2. Any party or non-party producing or filing documents or other materials in this
14 action may designate such materials and the information contained therein subject to this Order by
15 typing or stamping on the front of the document, or on the portion(s) of the document for which
16 confidential treatment is designated, “Confidential.”

17 3. To the extent any motions, briefs, pleadings, deposition transcripts, or other papers
18 to be filed with the Court incorporate documents or information subject to this Order, the party
19 filing such papers shall designate such materials, or portions thereof, as “Confidential,” and shall
20 file them with the clerk under seal; provided, however, that a copy of such filing having the
21 confidential information deleted therefrom may be made part of the public record. Any party filing
22 any document under seal must comply with the requirements of Local Rules.

23 4. All documents, transcripts, or other materials subject to this Order, and all
24 information derived therefrom (including, but not limited to, all testimony, deposition, or
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28 ¹ Plaintiff settled his claims with Bank of the West and a Notice of Settlement was filed on December 5, 2017
(ECF Dkt. 14)
[Proposed] Stipulated Protective Order - 2

1 otherwise, that refers, reflects or otherwise discusses any information designated Confidential
2 hereunder), shall not be used, directly or indirectly, by any person, including Plaintiff and
3 Experian Information Solutions, Inc., commercial or competitive purposes or for any purpose
4 whatsoever other than solely for the preparation and trial of this action in accordance with the
5 provisions of this Order.

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7 5. All depositions or portions of depositions taken in this action that contain
8 confidential information may be designated as “Confidential” and thereby obtain the protections
9 accorded other confidential information. The parties shall have twenty-one (21) days from the date
10 a deposition is taken, or fourteen (14) days from the date a deposition transcript is received,
11 whichever date is greater, to serve a notice to all parties designating portions as “Confidential.”
12 Until such time, all deposition testimony shall be treated as confidential information. To the extent
13 any designations are made on the record during the deposition, the designating party need not serve
14 a notice re-designating those portions of the transcript as confidential information. Any party may
15 challenge any such designation in accordance with Paragraph 14 of this Order.

16 6. Except with the prior written consent of the individual or entity designating a
17 document or portions of a document as “Confidential,” or pursuant to prior Order after notice, any
18 document, transcript or pleading given “Confidential” treatment under this Order, and any
19 information contained in, or derived from any such materials (including but not limited to, all
20 deposition testimony that refers, reflects or otherwise discusses any information designated
21 confidential hereunder) may not be disclosed other than in accordance with this Order and may
22 not be disclosed to any person other than: (a) the Court and its officers; (b) parties to this litigation;
23 (c) counsel for the parties, whether retained counsel or in-house counsel and employees of counsel
24 assigned to assist such counsel in the preparation of this litigation; (d) fact witnesses subject to a
25 proffer to the Court or a stipulation of the parties that such witnesses need to know such
26 information; (e) present or former employees of the producing party in connection with their
27 depositions in this action (provided that no former employees shall be shown documents prepared
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1 after the date of his or her departure); and (f) experts specifically retained as consultants or expert
2 witnesses in connection with this litigation.

3 7. Documents produced pursuant to this Order shall not be made available to any
4 person designated in Subparagraph 6 (f) unless he or she shall have first read this Order, agreed to
5 be bound by its terms, and signed the attached Declaration of Compliance.

6 8. Third parties who are the subject of discovery requests, subpoenas or depositions
7 in this case may take advantage of the provisions of this Protective Order by providing the parties
8 with written notice that they intend to comply with and be bound by the terms of this Protective
9 Order.

10 9. All persons receiving any or all documents produced pursuant to this Order shall
11 be advised of their confidential nature. All persons to whom confidential information and/or
12 documents are disclosed are hereby enjoined from disclosing same to any person except as
13 provided herein, and are further enjoined from using same except in the preparation for and trial
14 of the above-captioned action between the named parties thereto. No person receiving or
15 reviewing such confidential documents, information or transcript shall disseminate or disclose
16 them to any person other than those described above in Paragraph 6 and for the purposes specified,
17 and in no event, shall such person make any other use of such document or transcript.

18 10. Nothing in this Order shall prevent a party from using at trial any information or
19 materials designated "Confidential."

20 11. This Order has been agreed to by the parties to facilitate discovery and the
21 production of relevant evidence in this action. Neither the entry of this Order, nor the designation
22 of any information, document, or the like as "Confidential," nor the failure to make such
23 designation, shall constitute evidence with respect to any issue in this action.

24 12. Inadvertent failure to designate any document, transcript, or other materials
25 "Confidential" will not constitute a waiver of an otherwise valid claim of confidentiality pursuant
26 to this Order, so long as a claim of confidentiality is promptly asserted after discovery of the
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1 inadvertent failure. If a party designates a document as “Confidential” after it was initially
2 produced, the receiving party, on notification of the designation, must make a reasonable effort to
3 assure that the document is treated in accordance with the provisions of this Order, and upon
4 request from the producing party certify that the designated documents have been maintained as
5 confidential information.

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7 13. If any party objects to any designation of any materials as Confidential, the parties
8 shall attempt in good faith to resolve such objection by agreement. If the parties cannot resolve
9 their objections by agreement, any party shall be free to seek the assistance of the Court. A party
10 shall not be obligated to challenge the propriety of a Confidential designation at the time made,
11 and a failure to do so shall not preclude a subsequent challenge thereto. Until an objection has
12 been resolved by agreement of counsel or by order of the Court, the materials shall be treated as
13 Confidential and subject to this Order. The Court may find material to be improperly designated
14 if it: (a) is already public knowledge or otherwise in the public domain; (b) has become public
15 knowledge or enters the public domain other than as a result of a disclosure in violation of this
16 Order; (c) is acquired by the non-producing party from a non-party lawfully possessing such
17 documents or information; or (d) was lawfully possessed by the non-producing party before
18 discovery in this action.

19 14. **The designating party shall have the burden of proving that any**
20 **document designated as CONFIDENTIAL is entitled to such protection.** If the sole ground
21 for a motion to seal is that the opposing party (or non-party) has designated a document as subject
22 to protection pursuant to the stipulated protective order, the movant must notify the opposing party
23 (or non-party) at least five judicial days prior to filing the designated document. The designating
24 party must then make a good faith determination if the relevant standard for sealing is met. To the
25 extent the designating party does not believe the relevant standard for sealing can be met, it shall
26 indicate that the document may be filed publicly no later than four judicial days after receiving
27 notice of the intended filing. To the extent the designating party believes the relevant standard for
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1 sealing can be met, it shall provide a declaration supporting that assertion no later than four judicial
2 days after receiving notice of the intended filing. The filing party shall then attach that declaration
3 to its motion to seal the designated material. If the designating party fails to provide such a
4 declaration in support of the motion to seal, the filing party shall file a motion to seal so indicating
5 and the Court may order the document filed in the public record. In the event of an emergency
6 motion, these procedures shall not apply.
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8 15. Within sixty (60) days after the final termination of this litigation, all documents,
9 transcripts, or other materials afforded confidential treatment pursuant to this Order, including any
10 extracts, summaries or compilations taken therefrom, but excluding any materials which in the
11 good faith judgment of counsel are work product materials, shall be returned to the Producing
12 Party. In lieu of return, the parties may agree to destroy the documents, to the extent practicable.

13 16. In the event that any party to this litigation disagrees at any point in these
14 proceedings with any designation made under this Protective Order, the parties shall first try to
15 resolve such dispute in good faith on an informal basis. If the dispute cannot be resolved, the party
16 objecting to the designation may seek appropriate relief from this Court. During the pendency of
17 any challenge to the designation of a document or information, the designated document or
18 information shall continue to be treated as "Confidential" subject to the provisions of this
19 Protective Order.

20 17. Nothing herein shall affect or restrict the rights of any party with respect to its own
21 documents or to the information obtained or developed independently of documents, transcripts
22 and materials afforded confidential treatment pursuant to this Order.

23 18. The Court retains the right to allow disclosure of any subject covered by this
24 stipulation or to modify this stipulation at any time in the interest of justice.
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IT IS SO STIPULATED.

Dated December 29, 2017

<u>/s/ Miles N. Clark</u> Matthew I. Knepper, Esq. Nevada Bar No. 12796 Miles N. Clark, Esq. Nevada Bar No. 13848 KNEPPER & CLARK LLC Email: matthew.knepper@knepperclark.com Email: miles.clark@knepperclark.com David H. Krieger, Esq. Nevada Bar No. 9086 HAINES & KRIEGER, LLC Email: dkrieger@hainesandkrieger.com <i>Counsel for Plaintiff</i>	<u>/s/ Jennifer Braster</u> Jennifer L. Braster, Esq. Nevada Bar No. 9982 Andrew J. Sharples, Esq. Nevada Bar No. 12866 NAYLOR & BRASTER Email: jbraster@naylorandbrasterlaw.com Email: asharples@naylorandbrasterlaw.com <i>Counsel for Defendant</i> <i>Experian Information Solutions, Inc.</i>
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ORDER

IT IS SO ORDERED.

Dated: January 3, 2018


UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

DECLARATION OF COMPLIANCE

(Steven Rzepecki v. Experian Information Solutions, Inc. et al; 2:17-cv-02632-JCM-GWF)

I, _____, declare as follows:

1. My address is _____.

2. My present employer is _____.

3. My present occupation or job description is _____.

4 I have received a copy of the Stipulated Protective Order entered in this action on _____, 20____.

5. I have carefully read and understand the provisions of this Stipulated Protective Order.

6. I will comply with all provisions of this Stipulated Protective Order.

7. I will hold in confidence, and will not disclose to anyone not qualified under the Stipulated Protective Order, any information, documents or other materials produced subject to this Stipulated Protective Order.

8. I will use such information, documents or other materials produced subject to this Stipulated Protective Order only for purposes of this present action.

9. Upon termination of this action, or upon request, I will return and deliver all information, documents or other materials produced subject to this Stipulated Protective Order, and all documents or things which I have prepared relating to the information, documents or other materials that are subject to the Stipulated Protective Order, to my counsel in this action, or to counsel for the party by whom I am employed or retained or from whom I received the documents.

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1 10. I hereby submit to the jurisdiction of this Court for the purposes of enforcing the Stipulated
2 Protective Order in this action. I declare under penalty of perjury under the laws of the United
3 States that the following is true and correct.

4 Executed this ____ day of _____, 2017 at _____.

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7 QUALIFIED PERSON
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